

EXHIBIT 3



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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/883,520 | 06/18/2001 | John C. Parsons | 1931.VIN | 2425 |
| 40256 | 7590 | 12/19/2005 | EXAMINER | |
| FERRELLS, PLLC P. O. BOX 312 CLIFTON, VA 20124-1706 | | | SPERTY, ARDEN B | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1771 | |

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/883,520 | PARSONS ET AL. | |
| | Examiner | Art Unit | |
| | Arden B. Sperty | 1771 | |

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

FINAL OFFICE ACTION

Specification

1. The disclosure is objected to because of the following informalities: References to US patent application serial numbers should be updated with patent numbers, where applicable.

Appropriate correction is required.

Declaration Under 37 CFR 1.132

2. The submitted Declaration, under 37CFR 1.132, has been entered and reviewed.

3. The declaration is objected to because it is written in the third person, thus implying that the statements are not those of the declarant, but of another. It appears that the declarant has merely provided a signature to what a third party has declared. This is improper. A Declaration is a statement of one's own knowledge, not someone else's.

The content of the declaration is not found persuasive. Section 3 of the declaration misrepresents the prior art by stating that Cole teaches water soluble binders. Cole, column 3, line 41, clearly states that the binders are water insoluble, thus forming an emulsion. Section 4 of the declaration continues to inaccurately represent the prior art. The prior art does, in fact, teach water-dispersible, not water soluble, binders. The water-dispersible formulation taught by the reference is an emulsion. The declaration holds little weight, and is unpersuasive, because the statements misrepresent the prior art.

Claim Rejections - 35 USC § 112

4. Claims 1 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The aqueous emulsion "residue" is not supported by the specification. Deletion of the term "résidue" will obviate this rejection.

Claim Rejections - 35 USC § 102

5. Claims 1-6 and 8-14 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6444214 to Cole et al, as applied in previous office actions to all but new claims 13 and 14.

Cole is concerned with the creation of a binder composition for a nonwoven web (col. 3, lines 57-60), said binder comprising a water dispersible polymer, which is non-dispersible in aqueous solutions having .5% or more inorganic salt (3, lines 39-44). The binder comprises a hydrophilic monomer and a non-hydrophilic monomer (cols. 8-9, lines 52-15). The binder has applicant's claimed Tg value (table 1).

Cole teaches applicant's claimed fiber length (col. 20, lines 44-46).

Cole teaches applicant's claimed binder/fiber weight percentages (col. 19, lines 41 -43).

Cole possesses applicant's claimed strength properties (col. 37, lines 50-65).

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Cole teaches applicant's claimed additives and lotions (col. 24, lines 55-63 and 32, lines 35-65).

Cole teaches applicant's claimed basis weight (col. 21, lines 48-50).

Cole teaches the addition of inorganic salts (col. 8, lines 65-68).

Regarding claim 14, while the polymer of Cole contains additives it would still be dispersible without them, as was stated regarding previously drafted claim 1. Claim 14 is not seen to require anything beyond what was required by previously pending claim 1. Temperature, without additives, is another known trigger for such polymers (col. 6, lines 12-15). The binder comprises a hydrophilic monomer and a non-hydrophilic monomer (cols. 8-9, lines 52-15).

Cole teaches the claimed amount of solids present in the binder (col. 19, lines 1-14).

Response to Arguments

6. Applicant's comments regarding the difference between the claimed "aqueous emulsion" and the "water-dispersible" binder taught by the reference, have been considered but are not found persuasive. It is the examiner's understanding that an emulsion is a mixture of two immiscible liquids, wherein one substance is ***dispersed*** in another (see Wikipedia reference). The portion of Applicant's specification, cited in Applicant's response, seems to support the examiner's interpretation of an emulsion comprising one liquid ***dispersed*** in another. There does not appear to be an inherent difference between the solubility of the polymers that make up the dispersible products in the emulsion, despite Applicant's arguments, bridging pages 5-6, asserting that there

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is an inherent difference in the solubility of the polymers making up the dispersible products. Applicant appears to be of the position that the individual polymers making up the dispersible products in an emulsion are inherently insoluble, in contrast to the water-dispersible polymers of the Cole reference being allegedly soluble. In other words, it is Applicant's position that the polymers of the dispersible products of Cole are **soluble** when in their polymer form, whereas the polymers making of the dispersible phase of an emulsion are inherently **insoluble** in their polymer form. Applicant's position has been carefully considered, but this alleged inherency is not supported by factual evidence. The examiner has conducted a search of chemical engineering resources in an effort to find basis for the assumed distinction. Unfortunately, support for Applicant's position has not been found. Beyond the alleged inherency, the distinction regarding the solubility of the polymers making up the water-dispersible phase is not claimed, therefore the argument cannot be said to be commensurate with the explicit claim language. Further, the specification does not discuss the solubility of the individual polymers making up the water-dispersible product.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

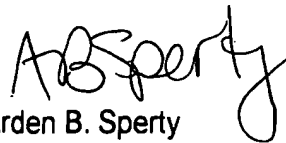
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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arden B. Sperty whose telephone number is (571)272-1543. The examiner can normally be reached on M-Th, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571)272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arden B. Sperty
Examiner
Art Unit 1771

November 29, 2005



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700